IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO. 357 OF 2007

Shivshankar Nagappa Kadadi & Anr. ..Appellants
(Org. Plaintiffs)

Versus

Madeppa Bandappa Kaddadi & Ors. ..Respondents
(Orig.Defendants)

Mr. I.M.Khairdi, Advocate, for the the appellants.
Mr. Nitin Jamdar,Advocate, a/w Mrs.Geeta P.Mulekar,Advocate, for the respondents.

CORAM: J.H.BHATIA,J.

DATE : 22nd November, 2007

P.C.

1. Heard learned Counsel for the parties.

2. The Second Appeal is filed by the original plaintiffs against their uncle Madeppa and his two sons, Annaraj and Meghraj and others seeking a direction that defendant No.1 Madeppa should execute a gift deed of certain property in favour of the plaintiffs-appellants as per the terms of the compromise entered into by the parties in earlier Regular Civil Suit No.565 of 1979 which was filed by Annaraj and others against the present plaintiffs, who were defendant Nos. 2 and 3, and others. That compromise took place on 13.2.1981.

According to the plaintiffs, Madeppa had agreed to execute a gift deed in respect of certain factory and other property as per para 7 of that compromise. According tothe plaintigffs, while the said terms of the compromise were acted upon, the gift deed was not exeuted by Madeppa. It was contended that Madeppa had given consent for the compromise. The learned Joint Civil Judge, Senior Division, Solapur, dismissed the suit and even appeal preferred by the plaintiffs came to be dismissed by the District Court. Therefore, they have come before this Court in Second Appeal.

3. The learned Counsel for the appellants could not point out any legal provision under which Madeppa or his legal heirs after his death, could be compelled to execute a gift deed of certain property. As per the terms of the compromise entered into in the earlier suit, there was no agrement for conveyance of property for consideration, specific performance of which could be granted.

4. Taking into consideration the circumstances and the findings of the Courts below, I find no substantial question of law involved in the present Appeal. Therefore, the Second Appeal stands dismissed.

(J.H.BHATIA,J.)